

**From:** Blank, Thomas  
**Sent:** 12 Jan 2018 15:29:12 +0000  
**To:** (b)(6);(b)(7)(C)  
**Subject:** RE: Fremont, NE, aliens to be checked.

No

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, January 12, 2018 10:26 AM  
**To:** Blank, Thomas  
**Subject:** RE: Fremont, NE, aliens to be checked.

Does this need to take place today?

(b)(6);(b)(7)  
Special Assistant  
Office of the Director  
U.S. Immigration and Customs Enforcement  
Desk: (202) 734 (b)(6);(b)(7)(C)  
Cell: (202) 907 (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

**From:** Blank, Thomas  
**Sent:** Friday, January 12, 2018 10:19 AM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Fremont, NE, aliens to be checked.

(b)(6)

Can you schedule the call? Kobach's number is down the chain.

Thanks,

Tom

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**From:** Homan, Thomas  
**Sent:** Friday, January 12, 2018 10:17 AM  
**To:** Davis, Mike P; Albence, Matthew; Blank, Thomas  
**Subject:** RE: Fremont, NE, aliens to be checked.

Tom, can you set up a call with Matt, OPLA and Kobach please?

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**From:** Davis, Mike P  
**Sent:** Friday, January 12, 2018 9:42 AM  
**To:** Homan, Thomas; Albence, Matthew; Blank, Thomas  
**Subject:** RE: Fremont, NE, aliens to be checked.

Just to close the loop on this, (b)(5);(b)(6);(b)(7)(C)

(b)(5);(b)(6);(b)(7)(C)

Michael P. Davis  
Executive Deputy Principal Legal Advisor  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
(O) 202-732-(b)(6) | (M) 202-904-(b)(6);(

**From:** Homan, Thomas  
**Sent:** Tuesday, January 9, 2018 1:44 PM  
**To:** Albence, Matthew; Davis, Mike P; Blank, Thomas  
**Subject:** RE: Fremont, NE, aliens to be checked.

Send me the template

**From:** Albence, Matthew  
**Sent:** Monday, January 08, 2018 4:24 PM  
**To:** Davis, Mike P; Homan, Thomas; Blank, Thomas  
**Subject:** RE: Fremont, NE, aliens to be checked.

Tom:

(b)(5)

(b)(5)

Thanks.

Matt

**From:** Davis, Mike P  
**Sent:** Monday, January 8, 2018 8:24 AM  
**To:** Homan, Thomas; Albence, Matthew; Blank, Thomas  
**Subject:** RE: Fremont, NE, aliens to be checked.

Thanks, Tom. (b)(5)

(b)(5);(b)(6);(b)(7)(C)

Michael P. Davis  
Executive Deputy Principal Legal Advisor  
Office of the Principal Legal Advisor

U.S. Immigration and Customs Enforcement

(O) 202-732-(b)(6) | (M) 202-904-(b)(6)

**From:** Homan, Thomas  
**Sent:** Monday, January 8, 2018 8:17 AM  
**To:** Davis, Mike P; Albence, Matthew; Blank, Thomas  
**Subject:** FW: Fremont, NE, aliens to be checked.

Mike, (b)(5)

**From:** Kris Kobach [mailto:(b)(6);(b)(7)(C)]  
**Sent:** Friday, January 05, 2018 5:15 PM  
**To:** Homan, Thomas  
**Subject:** RE: Fremont, NE, aliens to be checked.

Tom,

Thanks for your prompt reply and for your assistance to the City of Fremont. Attached is the letter you requested from the chief of police stating that I am their legal representative.

Regarding your point below about the three categories, would it be possible to provide some indicator of which of the three categories the alien falls in? Such as: (1) "ICE possesses no record - may be unlawfully present," (2) "no response - confidentiality restriction," and (3) "no response - identity uncertain." That way the City would at least know which cases cannot be investigated further and which cases may warrant further attention.

Thanks again.

Kris

**From:** Homan, Thomas [(b)(6);(b)(7)(C)]  
**Sent:** Wednesday, January 03, 2018 10:04 AM  
**To:** Kris Kobach [(b)(6);(b)(7)(C)]  
**Subject:** RE: Fremont, NE, aliens to be checked.

Kris,

I had my staff take a look at your request and we will be happy to provide a substantive response once we have some additional information. To ensure that ICE is acting consistently with 8 USC 1373(c), the Privacy Act, and the Fremont Ordinance itself (which contemplates the request being made by the Fremont Police Department), ICE would ask that the request for this information be routed to us directly from the Fremont PD, or in the alternative, that some documentation be provided to ICE showing that you are making the request on their behalf as a legal representative. My staff believes that would support the request and follow-up response.

Just to clarify our understanding of the request, we understand that Fremont is looking for ICE to confirm (from a list of persons whose information is provided by the city) those who are unlawfully present, to the extent that ICE has such information available. Is this correct?

Assuming this understanding is correct, it's important to clarify a couple of things. As you probably know, there will most likely be people on the list submitted by the Fremont PD for whom ICE has no records, or whose identity ICE cannot confirm based on the information provided. There may also be instances where ICE is not legally able to disclose information, due to federal confidentiality restrictions. In handling both of those situations, the response to the Fremont PD would be simply no response at all. In other words, a "no response" response does not equate to, and should not be used to presume, unlawful presence.

Once ICE receives the request from the Fremont PD, or documentation from you confirming your status as its legal representative, ICE will begin to process the request. After we've processed it, we can see if there are ways for the incoming information to be packaged up in a way that is easier for our systems to ingest and process, in the event of future requests. What you've sent us will likely involve a fair amount of manual searching. If we can find an efficient way to do this, it will speed up any future responses. I hope all this makes sense.

Please let me know if you have further questions.

Thank you.

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**From:** Kris Kobach [mailto:(b)(6);(b)(7)(C)]  
**Sent:** Tuesday, December 12, 2017 3:53 PM  
**To:** Homan, Thomas  
**Subject:** Fremont, NE, aliens to be checked.

Tom,

Great talking with you this afternoon. I look forward to working with you and helping ICE in any way I can in the years ahead.

Here is that list of alien tenants in Fremont, NE, containing individuals the City would like to verify the immigration status of.

The background is as follows. The citizens of Fremont adopted this ordinance by popular initiative in 2010. The ACLU sued the City thereafter, and I defended the City in court. The case went all the way to the 8th Circuit, and the City prevailed. The 8th Circuit held that the City has every right to restrict tenancy to legal aliens to US citizens and lawfully present aliens. The 8th Circuit also approved the enforcement mechanism in the ordinance. The case is *Martinez v. Fremont* (a copy of the court's opinion is attached). The City started enforcing the ordinance in April 2014.

The way the Fremont ordinance works is that every new tenant in an apartment has to obtain an occupancy license from the Fremont Police Department. On the application, the tenant must state whether he is a US citizen or an alien. If the applicant says he's a US citizen, the City takes him at his



word. If the applicant says he's an alien, he is advised to provide his country of citizenship and any number that he possesses that has been given to him by the US government (A number, employment authorization number, etc.).

The City issues the occupancy license immediately, but is subsequently able to give the information provided by the alien to ICE to "ascertain the ... immigration status" of the alien, pursuant to 8 USC 1373(c). If it is determined that the alien is not lawfully present in the United States, then the occupancy license can be revoked. (The alien is then given the opportunity to rebut the determination of status, and is afforded the opportunity to seek more information from ICE or USCIS to clarify his status.)

Attached is a list of 289 aliens who have applied for occupancy licenses from April 2014 to March 2017. So roughly 100 per year. The list includes the name, address in Fremont, DoB, country of origin, and number assigned to the alien (if available). A few of the aliens at the beginning of the list are missing DoBs or countries of origin -- if there is not enough information in those cases to check the status of the alien, that is fine. After this first large batch of 289, we would anticipate that the City might send a smaller number (50 or so) to be verified every 6 months or so, depending on what you advise.

If you could assign someone to determine the immigration status of each alien and add that to the attached Word file, that would be great. If the alien is either known to be unlawfully present or not known at all to the US government (and therefore presumably unlawfully present) please indicate that as well.

The Fremont ordinance permits the City to share any information on the alien's application with ICE for ICE's own purposes. So if your agents want to use that information for ICE enforcement operations, the ordinance contemplates that.

If you have any questions, please email me at this address or feel free to text me at 913-638-(b)(6). If you have any suggestions as to how the process could be made as easy as possible for ICE, please let me know.

Thanks for your help with this.

Yours,

Kris Kobach  
913-638-(b)(6)